

**VESTING TENTATIVE TRACT MAP NO. 43589
CONDITIONAL USE PERMIT CASE NO. 98-046-(5)
ZONE CHANGE CASE NO. 98-046-(5)**

**STAFF REPORT
January 21, 2004 REGIONAL PLANNING COMMISSION PUBLIC HEARING**

PROJECT OVERVIEW

The applicant, Rodgers Enterprises, LLC, is proposing to create 90 single-family lots, two open space lots and one public facility lot on 75 acres in the Sand Canyon Zoned District. The property contains a 19-acre area zoned A-1-1 and a 56-acre area zoned A-1-1-DP. The 56-acre portion of the property zoned A-1-1-DP is part of a previous project by the same developer (Tract 38371, Zone Change 80-014, Plan Amendment 1-82-1), which was approved by the Regional Planning Commission and Board of Supervisors between 1982-1983. The previously approved project required the 56-acre area zoned A-1-1-DP to be open space with development rights dedicated to Los Angeles County.

DESCRIPTION OF PROJECT PROPERTY

Location: The project site is located at the terminus of Benz Road, north of Copper Hill Drive in the Sand Canyon Zoned District.

Physical Features: The property is approximately 75 gross acres in size with hilly terrain. There are two streamcourses on-site, both of which are designated “waters of the U.S.” and one of which is a “blue-line” stream. Site elevations range from 1,420 to 1,876 feet. A two-million gallon water tank and two debris basins are located on the property.

Access: Access is provided from a proposed extension of Copper Hill Drive, a dedicated secondary highway with 100 feet right-of-way width, and from an extension of Ranch View Terrace to the west, a dedicated street of 64 feet of right-of-way width.

ENTITLEMENTS REQUESTED

Zone Change: To change 23 acres of the property from A-1-1-DP (Light Agricultural, one acre minimum lot area, Development Program Zone) to A-1-1 and to R-1-7000-DP (Single-family family residence, 7000 square feet, Development Program Zone).

Vesting Tentative Tract Map: To create 50 single-family lots, two open space lots and one public facility lot.

Conditional Use Permit (CUP): To ensure compliance with requirements for development in hillside management areas and the Development Program Zone, and to authorize the proposed density controlled development.

EXISTING ZONING

Zoning on the project site is A-1-1-DP (Light Agricultural, one acre minimum lot area, Development Program Zone) and A-1-1.

Surrounding zoning consists of:

North: A-2-1 (Heavy Agricultural, one acre minimum lot area)

South: R-1-6500 (Single-family residence, 6500 square feet minimum lot area), City of Santa Clarita

East: R-1-10,000-DP (Single-family residence, 10,000 square feet minimum lot area, Development Program Zone), R-1-6500 within the City of Santa Clarita.

West: R-A-15,000 (Residential Agricultural, 15,000 square feet minimum lot area), A-1-5 (Light Agricultural, five acre minimum lot area) (Southern California Edison property).

EXISTING LAND USES

The project site is vacant except for a 2-million gallon water tank and two debris basins.

Surrounding land uses consist of:

North: Vacant

South: Single-family residences.

East: Single-family residences.

West: Single-family residences.

PROJECT BACKGROUND

The current 75-acre project site contains a 19-acre western portion zoned A-1-1 and a 56-acre eastern portion zoned A-1-1-DP. The eastern portion of the property zoned A-1-1-DP was previously re-zoned and subdivided by Tract 38371, with associated Santa Clarita Valley Area Plan (SCVAP) Amendment 1-82-1, CUP 1989 and Zone Change 80-014. The total area for the previous Tract 38371 was 110 acres, which consisted of the 56-acre A-1-DP portion of the current subject property and 54 acres to the east, now zoned R-1-10,000-DP and developed with single-family homes. Tract 38371 was developed by the same applicant, James Rodgers, who is now requesting TR43589, the project currently being considered by your Commission.

Staff was not aware until after this project had been advertised for public hearing that there was a previous project on the site. Maps typically used by staff did not indicate any previous cases nor did application materials. It was only during preparation of the aerial maps for the public hearing that staff discovered that the eastern portion of the property zoned A-1-1-DP was part of previous Tract 38371. Consequently, earlier staff analysis and the Draft Environmental Impact Report (DEIR) for this current proposal was evaluated without this information.

The previous project, filed by the applicant in 1979, originally proposed development of 106 single-family lots on 110 acres. The current 56-acre A-1-1-DP area was formerly Lot 106 of the previous Tract 38371, and was proposed for one home site with the remainder of the area to

remain open space. SCVAP Amendment 1-82-1 requested to transfer urban designations from Lot 106 to non-urban areas in the northeast portion to cluster development on flatter areas of the project site; Zone Change 80-014 requested to change the zoning on the residential portions of the site from A-1-1 to RPD (Residential Planned Development); and CUP 1989 was for compliance with hillside management criteria and the density controlled development. The Regional Planning Commission denied Tract 38371 on April 23, 1981 due to inconsistency with the General Plan. The applicant subsequently appealed Tract 38371 to the Board. On May 27, 1982, the RPC conducted a public hearing on the project's SCVAP Amendment, Zone Change and CUP.

Staff has transcribed the tapes from the May 27, 1982 RPC public hearing on the previous project. A copy of the transcript of relevant portions of the RPC discussion is attached. A copy of the tapes has also been provided. Following is a summary of the main issues discussed.

- Density for previous Tract 38371 was calculated and approved based on the entire site acreage.

Staff calculations determined that the entire 110-acre project site, including the 56-acre open space area within Lot 106, would yield a maximum density of 116 dwelling units. The RPC considered and approved the applicant's proposal for 106 residences. Lot 106 was to contain only one home site, but the rest of the 56-acre area on Lot 106 was to remain permanent open space. (See Page 1 of attached transcript)

- Density on Lot 106 was transferred from the open space area to the eastern portions of the property for residential development.

Staff stated that if the applicant were granted 106 units on the developed portions of the site, the applicant would have used up any density on the whole 56 acre site. Additionally, provision of open space was necessary for consistency with the General Plan and requirements of the Hillside Management and density controlled development CUP. (See page 3 of the attached transcript)

- The applicant and his representative testified that Lot 106 would not be re-subdivided in the future acknowledging the steep terrain.

Testimony mentioned that the 25 to 50% grade on the open space area would prevent further development. The applicant agreed to dedicate the development rights over the open space area and to restrict Lot 106 to one single family residence. (See Page 4 of the attached transcript)

- To prevent future re-subdivision and maintain the permanent open space areas, the RPC required dedication of development rights over the open space area as a condition of approval.

As staff had expressed concerns about the applicant's proposal and potential for future re-subdivision, particularly related to the request to maintain A-1-1 zoning and to keep the property in private ownership, the RPC granted the applicant's request for A-1-1 zoning only

with the addition of the –DP addendum and the requirement that the applicant dedicate development rights to the county. The community, also concerned that Lot 106 could eventually be re-subdivided, was assured at the public hearing that the open space would remain permanent open space since the development rights would be conveyed to the County and the homeowners in the area. (See Page 8-10 of the attached transcript)

In addition to a transcription of the testimony at the public hearing, staff has attached a letter submitted by the applicant's engineer affirming the open space provision, stating **“Lot No. 106 contains 56.5 acres and is primarily open space.”**

Environmental Impact Report (EIR)

The EIR prepared for the previous project stated that the open space area would provide mitigation for the scenic quality impacts of the project due to conversion of open areas to residential uses. **“The major mitigation is the provision of 56 acres of open space hillsides in the westerly portion of the property.”**

The applicant agreed to the conditions and mitigation measures imposed on Tract 38371 and CUP 1989, which also states that Lot 106 was to be retained as open space, consistent with the intent of the RPC.

After the RPC's denial of Tract 38371, the tract was appealed to the Board, and the Board's approved conditions indicate that the project was reduced from 106 to 105 residential lots, with Lot 106 becoming an open space lot with no residential development permitted. CUP 1989 was not appealed to the Board and therefore, the conditions remained as the RPC approved, allowing one home on Lot 106. A copy of the approved conditions and pertinent EIR mitigation measure is attached.

The relevant conditions and mitigation measure are:

Tract 38371 (Board of Supervisors Conditions)

Condition 14: Provide for the ownership and maintenance of the open space lot to the satisfaction of the Department of Regional Planning.

Condition 15: As agreed, dedicate on the final the right to restrict the construction of residential structures to the County of Los Angeles over the open space lot (Lot 106).

CUP 1989 (RPC conditions)

Condition 23C: Open space areas shall be maintained in a manner satisfactory to the Director of Planning.

Condition 24: That the open space for the urban hillside portion of the site as defined by the General Plan shall comprise not less than 50% of the site; the non-urban hillside area shall remain 75% natural open space area.”

Condition 27: That the area to be rezoned A-1-1-DP shall be developed and used for one single-family residence only.

Subsequent to project approval, the applicant recorded three final maps for Tract 38371 on November 18, 1987 and the residential project was developed. **However, no final map was submitted over open space Lot 106 and therefore, the residential development rights on the property were never dedicated to the County.** Also, the legal description of the property does not reference Tract 38371 which is partly the reason staff was not aware of the previous project on the site.

After review of the available RPC public hearing tapes, the approved project conditions for Tract 38371 and CUP 1989, and other project documentation, staff concludes that:

- Density on the 56 acres zoned A-1-1-DP of the current project Tract 43589 (formerly Lot 106 of Tract 38371) has already been used to permit the project density of 106 dwelling units for the previous Tract 38371. There is no development potential remaining on the 56 acres.
- The open space in Lot 106 of previous Tract 38371 was necessary for consistency with the General Plan and compliance with Hillside Management and Density Controlled Development CUP 1989 open space requirements and as a mitigation measure for the EIR.
- Permitting additional density on the 56-acre Lot 106 would be contrary to the General Plan and Santa Clarita Valley Area Plan.
- For previous Tract 38371, the RPC required that the open space area of Lot 106 would not be re-subdivided in the future and would be preserved as permanent open space through dedication of development rights to the County, except for the construction of one single-family residence which was later eliminated by the Board of Supervisors. In addition, the Development Program addendum was required on the A-1-1 zoning in order to ensure development restrictions were placed over the 56-acre area.

PROJECT DESCRIPTION

The current proposal for Tract 43589 proposes development on approximately 37 acres or 49% of the project site. An additional 9.62 acres will be impacted by fuel modification. The residential lots are clustered on the southern and eastern portions of the property. The project proposes 500,000 cubic yard of cut and 500,000 cubic yards of fill. Maximum cut slopes are 135 feet and fill slopes are 60 feet. Residential lot sizes range from 7000 square feet to two acres, averaging 12,885 square feet. Street widths range from 58 to 64 feet and a tap street is provided to the property to the north on which Tentative Tract Map 47760 is presently pending for development of 500 single family residences and a school and park.

The development would remove 19.2 acres of coastal sage scrub habitat. Two streamcourses would be impacted, both of which are designated “waters of the U.S.” by the Army Corps of Engineer (ACOE), and one is considered a “blueline” stream. The project will eliminate 3,800 feet of streamcourse from the site, will require a Section 404 permit from the ACOE and a 1603 agreement with the CDFG.

The project design has been reviewed by the Los Angeles County Subdivision Committee for technical feasibility and recommended project conditions are attached.

GENERAL PLAN AND SANTA CLARITA VALLEY AREA PLAN

The property is designated Non-urban and Low Density Residential in the Countywide General Plan. The property contains Hillside Management, Non-urban 2, Urban 1 and Urban 2 designations of the Santa Clarita Valley Area Plan (SCVAP).

As staff was not aware of the previous tract map and conditions of approval discussed above, the project had been reviewed based on a request for subdivision of a 75 acre parcel.

It is important to note that slope analysis are required to be based on natural, rather than graded topography, and portions of the site have graded pursuant to the adjacent Tract 47657. Consequently, the allowable density may be less based on the pre-graded natural topography.

The proposed density of 90 dwelling units likely will not exceed the maximum density allowed under the General Plan and the SCVAP, but at this time the maximum density calculation has not been clearly determined.

The applicant proposes a density-controlled project where density should be transferred from open space areas to the development footprint to allow clustering of units on flatter portions of a site. The General Plan discourages development on steep slopes and states that “in no event is density transfer permitted to areas of a project site predominantly in excess of 50% natural slope.” (Page LU-29) The project proposes grading on some slopes over 50% and the density is in excess of the maximum one dwelling unit per 20 acres on such slopes.

The purpose of the hillside management category is to permit uses that are compatible with but do not significantly alter the character of hillsides, do not cause significantly detrimental environmental effects, visual impacts and hazardous health and safety impacts. Project design should minimize grading and maximize retention of natural topography and preserve drainage courses, riparian vegetation and major ridgelines.

The project proposes 500,000 cubic yard of cut and 500,000 cubic yards of fill with cut slopes up to 135 feet and fill slopes up to 60 feet. The grading will significantly alter existing topography, destroy 19.2 acres of coastal sage scrub habitat, and eliminate 3,800 linear feet of streamcourses that are designated “waters of the U.S.”, all of which are considered significant impacts. The proposed project may be considered inconsistent with hillside management policies as it will significantly alter the character of the hillsides and will impact valuable biological resources.

ZONE CHANGE

The applicant proposes to change 23 acres of the property from A-1-1 and A-1-1-DP to R-1-7500-DP. The applicant has attached a burden of proof statement for the zone change.

CONDITIONAL USE PERMIT BURDEN OF PROOF

The applicant, pursuant to Sections 22.56.215 and 22.56.205 of the Los Angeles County Code, has submitted the required burden of proof to substantiate findings for approval of the CUP. The applicant's burden of proof statements for the CUP are attached.

Hillside Management

Staff Analysis: The site is located in urban and non-urban hillside management areas. Although the proposed development footprint is clustered on the southern and eastern portions of the property, this area and the project grading is located predominantly on slopes over 25% and even 50%. In addition, most of the slopes less than 25% were previously disturbed by grading operations for the adjacent Tract 47657 to the west.

Provision of a minimum of 70% of non-urban hillside management areas and 25% of urban hillside management areas is a mandatory requirement of the hillside management CUP. The applicant proposes to meet this requirement through natural and graded areas in the open space lots, public facility lot (with the water tank) and private yards, which would encompass 53 acres or 70% of the site.

It is at your Commission's discretion whether to permit required open space to include undisturbed natural areas, parks and recreation areas, trails, graded areas, and/or private yards with dedicated construction rights. Staff concerns for this project include allowing the open space areas to be located in the private yards, public facility lots, and graded slopes.

Density Controlled Development

The applicant proposes a density controlled development where the proposed dwelling units will be clustered on the southern and eastern portions of the property, thereby allowing the remainder of the property to be preserved as open space. The density is computed on the entire project site, rather than on a parcel-by-parcel basis, allowing smaller lot sizes than usually permitted in the zone. **The remainder of the property must remain in permanent open space.**

The previous Tract 38371 was also a density controlled development whereby density was clustered on the eastern portion of the project and the western portion, containing Lot 106, was required to be the permanent open space area.

OTHER APPLICABLE PROVISIONS OF THE ZONING ORDINANCE

Single-family residences are permitted in the A-1 and proposed R-1 zone, pursuant to Sections 22.24.070 and 22.20.070 of the County Code. Sections 22.24.110 and 22.20.120 establishes development standards for the A-1 Zone, including requirements for a 20-foot front yard setback, five-foot side yard setbacks, and a 15-foot rear yard setback. The maximum height of all structures is 35 feet and two covered parking spaces are required for each dwelling unit.

ENVIRONMENTAL DOCUMENTATION

In accordance with State and County CEQA guidelines, a Draft Environmental Impact Report (DEIR) was prepared for the project. The DEIR addresses potentially significant impacts including: geotechnical hazards, drainage/flood hazard, fire hazard and protected services, water quality, biological, cultural, paleontological and visual resources, traffic and circulation, sewage disposal, education, sheriff protection and library services. The DEIR concludes that potentially significant impacts are less than significant with implementation of the proposed mitigation measures in the Mitigation Monitoring Program. Copies of the DEIR are distributed to the Commissioners.

The DEIR does not mention the issues concerning the site's status as an open space lot per conditions on a previously approved project since this information was not known at the time the document was prepared.

LEGAL NOTIFICATION

The public hearing notice and notice of completion of the DEIR was advertised in the Newhall Signal and La Opinion on December 2, 2003. The public hearing notice was posted on the property on December 19, 2003. Public hearing materials were sent to the Valencia Library and the DEIR was sent to this library as well as the Canyon Country and Newhall libraries. The hearing notice was sent to approximately 188 property owners within a 500 foot radius and to the City of Santa Clarita. Public hearing materials were also posted on the Department's website.

Staff recommended that the applicant conduct a community meeting prior to the public hearing. The applicant can address the Commission's questions concerning whether or not a community meeting was conducted.

CORRESPONDENCE

Staff has received two opposition letters and one comment on the DEIR. The City of Santa Clarita expressed concerns on traffic issues, particularly the opening of Copper Hill Drive between Haskell Canyon Road and David Way, resulting in changes in traffic patterns, and that the traffic analysis projects that 45% of project traffic will use Benz Road, a local residential street. The opposition letters also echo the concerns regarding traffic impacts on Benz Road.

STAFF EVALUATION

The current 75-acre subject property contains a 56-acre area portion zoned A-1-1-DP. This zoning was associated with a previous project on the site, Tract 38371, CUP 1989, Zone Change 80-014 and Plan Amendment 1821, approved by the Board in 1983. The project conditions required the A-1-1-DP zoned area, which was Lot 106 in Tract 38371, to be an open space lot with building rights dedicated to Los Angeles County as detailed previously in this report.

Consequently, staff analysis determines that:

- Permitting additional density on the 56-acre Lot 106 would be inconsistent with the General Plan and Santa Clarita Valley Area Plan.
- Permitting residential lots or any other development on the 56-acre portion of the property would conflict with previous project conditions and mitigation measures.
- A zone change would be inappropriate on the 56-acre portion of the property, since the A-1-1-DP zoning, with the Development Program overlay, was intended to restrict future re-subdivision of the property.
- The applicant did not comply with previous project conditions and should be required to comply by dedicating development rights over the 56-acre area, as previously required.

Staff concludes that the currently proposed project, Tract 43589, is **not** consistent with the conditions and mitigation measures required for previous Tract 38371, CUP 1981, and associated EIR, is inconsistent with provisions of the General Plan and Santa Clarita Valley Area Plan, and conflicts with the intent of the A-1-1-DP zoning.

This current proposal is an example of proposed re-subdivision of open space areas where development rights were originally conditioned to be dedicated to the County. It appears that this issue had been of concern to previous Commissions as well. Recent projects before your Commission proposing re-subdivision of open space, as well as a number of pending cases that staff is currently reviewing, have demonstrated that some mechanisms implemented previously may not adequately meet the policies and requirements of the General Plan and the Zoning Code to ensure appropriate and permanent open space preservation. Staff, applicants, and the public, would appreciate your Commission's direction on this critical open space issue. Staff feels also that this issue will become increasing important as available land for development shrinks and additional pressures are placed on any vacant lands.

STAFF RECOMMENDATION

The following analysis and recommendation is subject to change based on oral testimony or documentary evidence submitted during the public hearing process.

Staff believes that the evidence gathered thus far sufficiently demonstrate that the 56-acre eastern portion of the current project was previously Lot 106 of Tract 38371, on which dedication of development rights was conditioned to occur. However, there was limited time to review materials due to the recent discovery of the previous project on the site and there may be additional information pertaining to the previous cases since.

Therefore, the project applicant has requested a continuance to allow time to provide new or additional information that staff may not have regarding the previous project or to return with a revised project design.

Suggested Motion: "I move that the Regional Planning Commission continue the public hearing to address issues discussed by the Commission.

Alternate Motion: "I move that the Regional Planning Commission close the public hearing, indicate its intent to deny the project and direct staff to prepare findings for denial."

Attachments:

Transcript for PRC Public Hearing on previous project TR38371 (May 27, 1981)
Conditional Use Permit Burden of Proof
Correspondence
Vesting Tentative Tract Map No. 43589
Conditional Use Permit Exhibit "A"
Draft Environmental Impact Report